

JG BERNATT

a

v.

SETIAUSAHA KEHORMAT SEREMBAN
INTERNATIONAL GOLF CLUB & ANOR

b

COURT OF APPEAL, KUALA LUMPUR
DENIS ONG JCA
PAJAN SINGH GILL JCA
MOHD GHAZALI YUSOFF JCA
10 FEBRUARY 2002

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UNINCORPORATED ASSOCIATIONS: *Unincorporated associations - Club - Rules - Interpretation - Disciplinary action against member - Appellant disqualified from holding office as committee member of Club - Whether disqualification unconstitutional and invalid - Whether complied with Club rules*

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The appellant is a member of the Seremban International Golf Club ('the Club') and is an elected member of the Club's Management Committee ('the Committee'). At a meeting of the Committee held on 24 November 1995, it was agreed, pursuant to rule 50(2)(d) of the Constitution of the Club ('the rules'), that the appellant be disqualified from holding office as a member of the Committee, on the grounds that the appellant had not settled his Club bills on time and had become a defaulter under the rules. The disqualification apart, the Committee also decided to suspend the appellant from using the Club's facilities for three months, following his failure to give a written explanation to a certain show cause letter. Dissatisfied with Club's action, the appellant applied for a declaration that 'the suspension of his membership' was unlawful, unconstitutional and null and void. The application was however dismissed by the High Court whereupon the appellant appealed. Before the learned appellate judges, the primary issue that arose was whether the disciplinary action as taken by the Club against the appellant herein had fully complied with the rules and was hence valid and lawful.

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Held:

Per Mohd Ghazali Yusoff JCA

[1] At the said meeting of the Committee held on 24 November 1995, it was a decision of the Committee that the appellant is disqualified from holding office as member of the Committee. The Committee did not suspend the appellant's position as member of the Committee and his membership with

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- a* the Club remains intact. What the Committee also decided at that meeting was that, in relation to his ordinary membership of the Club, he is suspended from using the Club's facilities for three months. That being so, the 3rd prayer of the claim, which is the main issue that is being
- b* his membership is not valid and was not made in accordance with the rules, is clearly flawed since he was never suspended from being a member of the Committee but is disqualified from holding office as member of the Committee. (pp 238 f-i & 239 a)
- c* [2] The relevant part of the minutes of the Committee meeting held on 24 November 1995 showed that the Committee decided that the appellant together with two other members of the Committee were disqualified from holding office as they had been listed as defaulters. Paragraph 4.15.2 thereof showed that such decision was in line with the decision of the
- d* Committee as its 11th meeting wherein it was resolved that any member of the Committee who breach rr. 40, 50(1) and 50(2) of the rules would cease to hold office pursuant to r. 50(2) thereof. (p 242 b-g)
- e* [3] The appellant's posting as a defaulter was carried out in accordance with the rules which were promulgated to ensure prompt settlement of accounts. He was also given sufficient notice as to his posting as a defaulter and has attended the 11th and 12th meetings of the Committee when the subject of defaulters who were also committee members was brought up and discussed.. There is therefore no merit in the complaint of the appellant. To allege now that his 'removal' as a member of the Committee on
- f* 24 November 1995 is arbitrary and unconstitutional and an abuse of process of law is just preposterous. (p 243 f-i)

[Appeal dismissed.]

[Bahasa Malaysia Translation Of Headnotes

- g* Perayu adalah seorang ahli Kelab Golf Antarabangsa Seremban ('Kelab') dan ahli dipilih dalam Jawatankuasa Pengurusan Kelab ('Jawatankuasa'). Pada mesyuarat Jawatankuasa yang diadakan pada 24 November 1995, ianya dipersertujui, berdasarkan peraturan 50(2)(d) Perlembagaan Kelab ('peraturan'), bahawa perayu dibuang kelayakan dari memegang jawatan sebagai ahli
- h* Jawatankuasa, oleh kerana perayu gagal menyelesaikan hutang Kelabnya sekaligus menjadikannya seorang pelanggar di sisi peraturan. Selain itu, Jawatankuasa juga memutuskan untuk menggantung hak perayu untuk menggunakan kemudahan Kelab selama tiga bulan, ekoran kegagalan perayu memberikan jawapan bertulis kepada suatu surat tunjuk sebab. Merasa tidak
- i* puas hati dengan tindakan Kelab, perayu memohon perisytiharan bahawa

‘penggantungan keahliannya’ adalah tidak sah, tidak mengikut perlembagaan dan batal. Permohonan perayu ditolak oleh Mahkamah Tinggi dan perayu merayu. Di hadapan hakim-hakim rayuan yang bijaksana, persoalan penting yang berbangkit adalah sama ada tindakan disiplin sepertimana yang diambil oleh Kelab terhadap perayu di sini mematuhi sepenuhnya peraturan dan dengan itu adalah sah di sisi undang-undang.

**Diputuskan
Oleh Mohd Ghazali Yusoff HMR**

- [1] Di mesyuarat Jawatankuasa yang diadakan pada 24 November 1995, ianya merupakan keputusan Jawatankuasa bahawa perayu dibuang kelayakan dari memegang jawatan sebagai ahli Jawatankuasa. Jawatankuasa tidak menggantung kedudukan perayu sebagai ahli dalam Jawatankuasa dan keahlian perayu di dalam Kelab adalah masih utuh. Apa yang diputuskan selanjutnya oleh Jawatankuasa adalah bahawa, berkaitan dengan keahlian biasa perayu di dalam Kelab, beliau digantung dari menggunakan kemudahan Kelab selama tiga bulan. Oleh hal yang demikian, permohonan ketiga di dalam tuntutan, yang merupakan isu utama yang diujahkan di dalam rayuan semasa, yakni untuk deklarasi bahawa penggantungan keahlian perayu adalah tak sah kerana tidak dibuat menurut kehendak peraturan, jelas sekali cacat oleh kerana beliau tidak pernah digantung dari menjadi ahli tetapi dibuang kelayakan dari memegang jawatan sebagai ahli Jawatankuasa.
- [2] Bahagian yang berkenaan pada minit mesyuarat yang diadakan pada 24 November 1995 menunjukkan bahawa Jawatankuasa memutuskan bahawa perayu bersama-sama dua ahli Jawatankuasa yang lain dibuang kelayakan dari memegang jawatan oleh kerana mereka telah disenaraikan sebagai pelanggar. Perenggan 4.15.2 minit menunjukkan bahawa keputusan tersebut adalah selaras dengan keputusan yang dibuat oleh Jawatankuasa pada mesyuarat ke-11nya di mana ianya diputuskan bahawa mana-mana ahli Jawatankuasa yang melanggar peraturan 40, 50(1) dan 50(2) peraturan akan berhenti dari memegang jawatan berdasarkan kehendak peraturan 50(2) tersebut.
- [3] Penyenaraian perayu sebagai seorang pelanggar dibuat mengikut ketetapan peraturan yang mana penggubalannya adalah bagi memastikan pembayaran segera akaun. Beliau juga telah diberi notis yang memadai tentang penyenaraian sebagai seorang pelanggar dan telah menghadiri mesyuarat-mesyuarat Jawatankuasa yang ke-11 dan 12 bilamana persoalan pelanggar di kalangan ahli Jawatankuasa telah dibangkit dan dibincang. Bantahan perayu dengan itu jelas tidak bermerit. Mengatakan sekarang bahawa

- a* 'pemecatan' perayu sebagai ahli Jawatankuasa pada 24 November 1995 adalah tindakan sepihak, tak berperlembagaan dan satu salah guna proses adalah tidak masuk akal.

Rayuan ditolak.]

- b* *For the appellant - Munjeet Singh; M/s Bernatt Pereira & Co*
For the respondents - Mohd Hafarizam Harun (Celine Chelladurai); M/s Rashid & Lee

[Appeal from High Court, Seremban; Civil Suit No: 22-103-95]

- c* *Reported by WA Sharif*

JUDGMENT

Mohd Ghazali Yusoff JCA:

- d* The appellant, who incidentally is an advocate and solicitor and running his own practice in Seremban, is a member of the Seremban International Golf Club ("the Club"). In 1994 he was elected as a member of the Committee of Management of the Club ("the Committee"). Rule 22 of the Constitution of the Club ("the rules") which deals with the duties and powers of the Committee provides, *inter alia*, that the Committee has the power to institute disciplinary proceedings against members who violate any of the rules or bye-laws of the Club.

- e* At a meeting of the Committee held on 24 November 1995, which the appellant attended, it was unanimously agreed, pursuant to r. 50(2)(d) of the rules, that the appellant be disqualified from holding office as a member of the Committee with immediate effect on the grounds that he has been listed as a defaulter on 13 November 1995. Rule 50 of the rules, *inter alia*, read:

- f* (1) If at any time a member's account remains unpaid within 14 days of his account being rendered, the Treasurer shall send him a Registered Notice requiring him within 7 days to settle his overdue account in full.

- g* (2) Should such member fail to comply with such notice, the Treasurer shall forthwith cause the name of such member to be listed as a defaulter and posted in any part of the Club. Such posting shall involve:

- h* (a) Withdrawal of credit, all Club and reciprocal facilities;
- (b) Disqualification from voting at a General Meeting;
- (c) Disqualification from being a Proposer or Seconder for application for membership;

- i*

(d) Disqualification from standing as a Candidate for any office in the Committee or hold office; *a*

(e) Disqualification from competing in any Club Competition.

On the following day, ie, 25 November 1995 the secretary of the Club in a letter addressed to the appellant confirmed that the Committee at its meeting held on 24 November 1995 has decided that he be disqualified from holding office as a member of the Committee with immediate effect. Subsequently, by letter dated 29 November 1995, the Club informed the appellant that the Committee at its meeting on 24 November 1995 has also decided to impose the following punishment as a consequence of his failure and/or neglect to give a written explanation within 14 days after receipt of a show cause letter dated 1 August 1995 as to why he used the Club's facilities whilst listed as a defaulter, namely: *b*

(a) a warning; and *c*

(b) that he is suspended from using the Club's facilities for three months from the date of the letter, viz., 29 November 1995. *d*

By writ of summons dated 22 December 1995 the appellant sued the respondents, ie, the Club and Ahmad Tajuddin bin Ujang, the first vice-president of the Club who was holding that post by virtue of being the then State Secretary, Negeri Sembilan and prayed for the following reliefs, which in its original text reads: *e*

19. Oleh yang demikian Plaintiff memohon:-

(a) Deklarasi bahawa AGM dalam tahun 1995 tidak sah dan ahli-ahli Jawatankuasa kelab tidak sah di sisi undang-undang; *f*

(b) Injunksi menghalang Defendan-defendan daripada menggantung keahlian Plaintiff selagi perbicaraan penuh ini;

(c) Deklarasi bahawa penggantungan keahlian Plaintiff tidak sah dan tidak mengikut Perlembagaan; *g*

(d) Gantirugi terhadap Defendan-Defendan;

(e) Kos; dan

(f) Lain-lain Perintah. *h*

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a Simultaneously the appellant filed a summons in chambers (encl. 3) praying, *inter alia*, for an injunction to restrain the Club from suspending him as a member and preventing him from using his privileges and rights as a member of the Committee until the final disposal of the suit. The orders sought for, in its original text, read:

b (a) Injunksi menahan Kelab Defendan maupun melalui Jawatankuasa, ejen, pekerja ataupun ahli-ahli mereka atau melalui sesiapa pun daripada:

(i) menggantungkan keahlian Plaintiff sehingga tamatnya kes ini secara muktamat dan

c (ii) menghalang Plaintiff dari menggunakan keistimewaan dan hak-haknya sebagai seorang ahli Jawatankuasa sehingga penyelesaian kes ini secara muktamat.

d Enclosure 3 was dismissed by the learned High Court judge. Subsequently, at the end of the trial, the suit was also dismissed. The appellant appealed against both decisions.

e On the application of the appellant, these appeals were heard together. In the midst of the hearing before us, the appellant withdrew his appeal in relation to encl. 3, ie, against the refusal of the learned High Court judge to grant the interim injunction. We subsequently dismissed that appeal with costs.

f In relation to the second appeal, ie, the main suit counsel for the appellant informed us that he is restricting his appeal only to the 3rd, 4th and 5th prayers of the claim, viz., for a declaration that the suspension of the appellant's membership is not valid and was not in accordance with the rules, damages and costs. From our reading, what is clear from the evidence is, at the said meeting of the Committee held on 24 November 1995, it was a decision of the Committee that the appellant is disqualified from holding office as member of the committee. The Committee did not suspend his position as member of the Committee. His membership with the club is still intact and he has admitted so before us at the outset of the hearing of these appeals. What the Committee also decided at that said meeting is that, in relation to his ordinary membership of the club, he is suspended from using the Club's facilities for three months from 29 November 1995 for failing and/or neglecting to give a written explanation within 14 days after receipt of the said show cause letter dated 1 August 1995 as to why he used the Club's facilities on 23 July 1995 whilst listed as a defaulter. That being the position, we would think that the 3rd prayer of the claim which is the main issue that is being pursued in this appeal, viz., for a declaration that the suspension of his membership is not valid and was not made in accordance with the rules, is clearly flawed since he was never

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suspended from being a member of the Committee but is disqualified from holding office as member of the Committee. His membership with the club is still intact as conceded by him. *a*

As mentioned earlier, at the outset of the hearing of these appeals, the appellant himself informed us that he is still a member of the Club. His counsel had then intimated that he now wished to amend the statement of claim but did not enlighten us further on the proposed amendment sought. We did not of course entertain this oral application and counsel also did not pursue the matter further. *b*

In his submission counsel for the appellant contended the main issue in this appeal is the validity of the “removal” of the appellant as a member of the Committee. He then raised the following: *c*

- (i) the “removal” of the appellant as a member of the Committee on 24 November 1995 is arbitrary and unconstitutional and an abuse of process of law; *d*
- (ii) the secretary/manager of the Club, who is appointed by the Committee, signed the said notice dated 3 November 1995 made pursuant to r. 50(1) of the rules whereas it should be signed by the treasurer of the club;
- (iii) the appellant was requested to leave the said committee meeting held on 24 November 1995 and that is unconstitutional; *e*
- (iv) the respondents did not allow the appellant to use the facilities of the club for three months;
- (v) the following extract of the minutes of the said committee meeting held on 24 November 1995 is a fabrication, viz.: *f*

2. Menggunakan Kemudahan Kelab Semasa ‘Defaulter’

2.1. Hukuman *g*

2.1.1. Amaran

2.1.2. Dilarang menggunakan kemudahan kelab selama tiga bulan.

2.2. Ahli Terlibat

2.2.1 En. J.G. Bernatt B.78 *h*

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- a* Counsel however concede the appellant did not plead this allegation of fabrication in his statement of claim and further concede that the minutes of the said committee meeting held on 24 November 1995 is an agreed document. We do not propose to go into this allegation of fabrication as it is a non-issue.
- b* From our reading, the events which led to the Committee's decision to disqualify the appellant from holding office as a member of the Committee were in relation to his account as member of the Club, namely, he committed the "sin" of not settling his club bills on time. It was highlighted at the trial that for the month of May 1995, the appellant's account with the Club had a debit of balance of
- c* RM220.31 and he did not settle that sum within 14 days of the account being rendered. Rule 50(1) of the rules, reproduced earlier, provides if at any time a member's account remains unpaid within 14 days of his account being rendered, the treasurer shall send him a registered notice requiring him within seven days to settle his overdue account in full. The evidence clearly show that the Club
- d* duly sent the required notice which was dated 4 July 1995 but the appellant did not settle the overdue account within seven days as required by that rule. Consequently, by letter dated 15 July 1995, the Club informed the appellant as he has yet to put his account in credit, the club has forthwith caused his name to be listed as a defaulter and posted him as such. This course of action
- e* by the club was carried out in accordance with r. 50(2) of the rules, reproduced earlier, which provides if a member of the club fails to comply with the notice referred to in r. 50(1), the treasurer shall forthwith cause the name of such member to be listed as a defaulter and posted in any part of the Club and that such posting shall involve, *inter alia*, withdrawal of credit and all Club
- f* facilities. That letter of 15 July 1995 also reminded the appellant of r. 50(3) of the rules. Rule 50(3) read:

- g* Should any member's account remain unpaid at the expiration of 14 days from the date of posting as a defaulter under Section (2) of this Rule, the member shall "*Ipsa Facto*" cease to be a member of this Club. The Committee may then take steps to institute legal proceedings for the recovery of amount due from such member.

That letter further sought the co-operation of the appellant to put his account in credit before the 14 days deadline and informed him that the delistment exercise will be enforced on 1 August 1995.

- h* Meanwhile on 23 July 1995, whilst listed as a defaulter, the appellant was found playing tennis on the club's premises at about 9.30am by an employee of the Club who then lodged a report. *Vide* a "show cause" letter dated 1 August 1995 the club informed the appellant that a report has been lodged
- i* against him with regards to the above, *viz.*, that he played tennis on the said

date and time whilst listed as a defaulter and which status did not entitle him to use the facilities of the Club. That “show cause” letter also stated the following:

Should you wish to refute the contents of the report, you are welcome to submit your written version of the incident on or before 28 August 1995. Should you however fail to do so, within the specified time, the Committee of Management shall rightfully assume that the contents of the said report is true and correct and shall proceed further in the matter.

The appellant did not respond to the said “show cause” letter on or before 28 August 1995 as requested therein. Meanwhile, on 26 July 1995 the appellant settled the said outstanding sum of RM220.31. We observe that pursuant to r. 50(3) of the rules he would have ceased to be a member of the Club itself if he settled the said outstanding sum after 29 July 1995, ie, after 14 days have expired from the date of posting as a defaulter.

It was also highlighted at the trial that by letter dated 25 September 1995, the Club informed the appellant as he has yet to put his account for July 1995 in credit, the Club has forthwith caused his name to be listed as a defaulter in accordance with r. 50(2) of the rules and posted him as such. That letter sought the co-operation of the appellant to put his account in credit before the 14 days deadline and also informed him that the delistment exercise will be enforced on 11 October 1995. The amount which was outstanding was RM330.55.

Yet again, by notice dated 3 November 1995 the secretary/manager of the Club informed the appellant that his account for September 1995 has a debit balance of RM442.71 and that it has not been settled within 14 days. The secretary/manager also drew the attention of the appellant to the provisions of r. 50 of the rules and sought his co-operation in settling the said sum within seven days. That sum was not settled within seven days as required as a result of which by letter dated 13 November 1995, the secretary/manager of the club informed the appellant as he has yet to put his September 1995 account in credit, the club has forthwith caused his name to be listed as a defaulter and posted him as such. That letter similarly sought the co-operation of the appellant to put his account in credit before the 14 days deadline and also informed him that the delistment exercise will be enforced on 27 November 1995. That letter also reminded the appellant of r. 50(3) of the rules, viz., that should any member’s account remain unpaid at the expiration of 14 days from the date of posting as a defaulter the member shall “*Ipso Facto*” cease to be a member of the Club.

- a* We find no merit with regard to the first complaint raised before us, viz., that the “removal” of the appellant as a member of the Committee on 24 November 1995 is arbitrary and unconstitutional and an abuse of process of law. In relation to this, the relevant part of the minutes of the said Committee meeting held on 24 November 1995, which incidentally was the 12th meeting of the Committee and which was attended by the appellant, read as follows:
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4.15. Tindakan Ke Atas Ahli Jawatankuasa Pengurusan Kelab Yang Tidak Mematuhi Peraturan 50(2)(d)

- c* 4.15.1. Ahli Jawatankuasa Pengurusan berikut digugurkan dari memegang jawatan didalam Jawatankuasa serta merta kerana telah disenaraikan sebagai “defaulter” pada 13 November 95.

a) En JG Bernatt

b) En James Tan

- d* c) En SK Paul.

- e* 4.15.2. Keputusan adalah selaras dengan keputusan Mesyuarat Jawatankuasa Pengurusan Kelab Ke Sebelas dimana Ahli Jawatankuasa Mesyuarat Kelab yang melanggar Perlembagaan Kelab Peraturan 49, 50(1) dan 50(2) akan digugurkan mengikut Peraturan 50(2)(d). Tindakan ahli berkenaan untuk menjelaskan hutangnya selepas disenaraikan sebagai “defaulter” dan sebelum disenaraikan sebagai “delisted” akan hanya mengembalikan haknya sebagai ahli biasa sahaja.

4.15.3. Surat pemberitahuan tentang mengguguran mereka hendaklah dihantar.

- f* Paragraph 4.15.1 of the minutes show that the Committee decided that the appellant together with two other members of the Committee are disqualified from holding office as they have been listed as defaulters. Paragraph 4.15.2 show that such decision was in line with the decision of the Committee at its 11th meeting wherein it was resolved that any member of the Committee who breach rr. 49, 50(1) and 50(2) of the rules will cease to hold office pursuant to r. 50(2)(d) of the same. It was also decided at that 11th meeting that the status of such a member shall revert to that of an ordinary member if the debt is settled before he is delisted. The minutes of the 11th meeting of the Committee, which was held on 27 October 1995, show that the appellant attended that meeting. Paragraphs 7.2 of the minutes of that 11th meeting read as follows:
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7.2. Peraturan Kelab Berkaitan Dengan Defaulter

7.2.1. Peraturan 50(2)(d) menetapkan bahawa seorang ahli yang menjadi “defaulter” akan mengalami “Disqualification from standing as a candidate for any office in the Committee or hold office.” Ini bererti seseorang ahli Jawatankuasa Pengurusan Kelab akan secara otomatis gugur dari menjadi ahli Jawatankuasa Pengurusan apabila menjadi “defaulter”. Pembayaran hutangnya selepas menjadi “defaulter” akan hanya melayakkan beliau menjadi ahli biasa sahaja.

7.2.2. Pengurusan Kelab dikehendakki mematuhi sepenuhnya peraturan 50(1), 50(2) dan 50(3) Perlembagaan Kelab tentang pembayaran hutang kelab. “Defaulters” untuk setiap bulan (walaupun membayar hutangnya setelah senarai dikeluarkan) dan ahli-ahli “De-listed” hendaklah dilapurkan di tiap mesyuarat Jawatankuasa Pengurusan Kelab.

What is clear as daylight is that the appellant was posted as a defaulter for failing to put his account for September 1995 in credit and was informed as such *vide* the said letter dated 13 November 1995. He was given 14 days from 13 November 1995 to put his account into credit. He was also informed that the delistment exercise will be enforced on 27 November 1995, *viz.*, that he shall “*ipso facto*” cease to be a member of the Club if he fails to put his account into credit by that deadline. At that said meeting of the committee held on 24 November 1995 it is not disputed that the appellant remained posted as a defaulter. He, together with two other members of the committee who were also posted as defaulters, were “dropped” from the committee.

Looking at the above, we cannot see how the first complaint raised before us can hold water. His posting as a defaulter was carried out in accordance with the rules. From our reading, these rules were promulgated to ensure prompt settlement of accounts. He was given sufficient notice *vide* the notice dated 3 November 1995 which was issued pursuant to r. 50(1) of the rules and the letter dated 13 November 1995 stating that he is posted as a defaulter as from that date. He attended the 11th and 12th meetings of the Committee wherein the subject of defaulters who are also committee members was brought up and discussed. The minutes of the 11th meeting of the Committee reproduced above show that the Committee has decided to strictly enforce what is already provided for in the rules, *viz.*, to take action against members of the Club including committee members who do not settle their Club bills on time. To allege now that his “removal” as a member of the Committee on 24 November 1995 is arbitrary and unconstitutional and an abuse of process of law is preposterous. He was disqualified from holding office as member of the Committee by virtue of the rules. The learned High Court judge was of the view that the appellant was present when item 4.15 of the minutes relating to the three defaulters including the appellant was being discussed. In relation to this he said:

- a* Mahkamah mendapati lebih kemungkinan Plaintiff dan James Tan keluar apabila Plaintiff dan Pengerusi bertengkar daripada kemungkinan mereka keluar semasa mesyuarat membincangkan perkara yang melibatkan mereka. Plaintiff tidak membangkitkan apa-apa perkara apabila item 4.1. dibincangkan di mesyuarat itu dan apabila sampai kepada item 4.15 Pengerusi bertanya dan Setiausaha menjawab bahawa Plaintiff, James Tan dan SK Paul adalah ahli-ahli Jawatankuasa yang tidak membayar akaun masing-masing. Mesyuarat berbincang, keputusan dibuat dan Plaintiff dan James Tan keluar semasa pertenggaran.
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- The learned High Court judge saw and heard the witnesses and was of the view that the appellant was present when the matter was discussed and the notes of proceedings do not at all suggest that this view is erroneous. The appellant cannot now complain his “removal” was arbitrary and unconstitutional and an abuse of process of law or that requesting him to leave the meeting room is “unconstitutional”. He has to comply with r. 50(1) and (2) of the rules notwithstanding he is a member of the Committee. Since the Club has religiously followed the procedure provided for in r. 50(1) and (2) of the rules, we cannot see how it can be argued that his “removal” is against the rules or “unconstitutional” as he put it. We cannot also see how it can be said that asking him to leave the meeting is unconstitutional. The moment the Committee ruled that the appellant is disqualified from holding office, he has to leave the meeting as he is no longer a member of the Committee.
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- d*
- e*

- We also cannot find any merit in the complaint of the appellant that it was the secretary/manager of the Club and not the treasurer of the club who signed the said notice dated 3 November 1995, viz., the notice that reminded him that his account for September 1995 was outstanding, and that this is contrary to r. 50(1) of the rules. Rule 50(1) of the rules provide that if at any time a member’s account remains unpaid within 14 days of his account being rendered, the treasurer shall send him a registered notice requiring him within seven days to settle his overdue account in full. We observe that the rule states the treasurer shall “send” the notice. There is nothing to show that the notice must bear the signature of the treasurer. Be that as it may, in relation to this, r. 22(13) of the rules provide the Committee shall have the power to appoint a competent person as “paid secretary and/or treasurer”. It was adduced in evidence at the trial that by letter dated 8 April 1995 the Committee appointed one Selamat bin Saad as “Club manager performing the duties of a salaried secretary and salaried treasurer”. The said notice dated 3 November 1995 was signed by the said Selamat bin Saad. In his grounds of judgment the learned trial judge adequately dealt with this issue in the following manner; he said:
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- g*
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The term “Treasurer” is defined under Rule 4 of the Club Rules and it means a paid Treasurer as appointed under Rule 22(13) or an Honorary Treasurer as appointed (nominated) under Rule 21. The Committee of Management may appoint a competent person under Rule 22(13) as paid Secretary and/or Treasurer. By a letter dated 8.4.95 (Exhibit KB-1) the Committee of Management appointed Encik Selamat bin Saad as ‘Club Manager performing the duties of a salaried Secretary and salaried Treasurer’. Thus the above notices sent and signed by the Hon. Secretary/Manager have the effect of the Treasurer’s Notice because the “Manager” is clothed with the power of a salaried Treasurer. For the purpose of clarity the Notices should have been signed by “Manager acting as Secretary/Treasurer”. The misdescription if any, relates to form but not to substance.

We do not propose to comment further on this issue as the matter has been adequately dealt with by the learned trial judge.

We also find nothing wrong with the decision of the Committee to suspend the appellant from using the Club’s facilities from three months from 29 November 1995. He did not respond to the said show cause letter and now complain he has been wronged. Rule 50(2)(a) provides being listed as defaulter shall involve “withdrawal of credit, all club and reciprocal facilities”. The appellant used the club’s tennis court whilst listed as a defaulter. He was given ample time and opportunity to refute the complaint in relation to the above lodged against him but did not bother to state his case to the Committee within the time prescribed. He was then a member of the Committee when served with the said show cause letter. We observe that the appellant did not seek any order in his statement of claim in relation to the punishment imposed upon him by the Committee, viz., the warning and suspension of club facilities. That being the situation, we cannot see the relevance or purpose of this complaint.

For the reasons discussed above we dismissed this second appeal with costs and ordered that the deposit to be paid to the respondents towards the account of taxed costs.